

1 swear your witness?

2 MR. WATKINS: Yes, sir, I did.

3 CHAIRMAN WISE: Okay, thank you. I'm sorry.

4 THE WITNESS: That's all right, sir.

5 It sets out the methodology that Covad used to
6 determine what we believe are just and reasonable rates for
7 the various elements associated with line sharing. And so
8 that involves taking a look at both recurring and non-
9 recurring costs. And as you all know, the way those things
10 are determined is somewhat different. So I'll address
11 briefly what we did with non -- I'm sorry, with recurring
12 costs first.

13 As Mr. Williams alluded to during his testimony,
14 we have closed commercial line sharing agreements with
15 Qwest, with Verizon, and with the new AT&T, previously SBC
16 when we closed that agreement. So we do have extensive
17 experience across a nationwide footprint with negotiating
18 these deals.

19 And, again, as Mr. Williams points out in his
20 testimony, his direct testimony, the rates for line sharing
21 contained within those agreements are between 4.75 and \$7.
22 So the rate that we set involves -- that we are suggesting
23 involves two elements. Because that's the way line sharing
24 works. You have a splitter, so that the loop, as it comes
25 into the central office, goes to a splitter. In the

1 BellSouth region, BellSouth owns the splitters that are used
2 for line sharing.

3 And from there, that piece of equipment does
4 exactly what it sounds like it ought to do, it splits the
5 signal into a high frequency and a low frequency portion of
6 the loop. The high frequency portion then comes to Covad's
7 collocation space, while the low frequency portion which is
8 carrying the voice signal goes to the BellSouth switch.

9 So when you're talking about the high frequency
10 portion of the loop, you really have two elements. You have
11 the HFPL, and there's a recurring cost for that; and you
12 also have a recurring cost for the port on the splitter
13 because that is a cost that BellSouth incurs. So when you
14 look at our rate sheet, we proposed a rate for both of those
15 which adds up to about \$5 a month for the high frequency
16 portion of the loop, including the splitter cost.

17 Just so you get a sense of how this compares in
18 Georgia, currently today in Georgia we pay 61 cents a month
19 for the -- what we proposed a \$5 cost for as a market-based
20 rate. To a degree that's a little bit artificial, because
21 in Georgia you all determined, with great wisdom, I might
22 add, that the splitter cost should be recovered on a
23 recurring basis as part of the loop cost, so we pay zero per
24 month on for splitters here.

25 If you look region wide, though, and we could get

1 exact numbers for you -- but if you look region wide, we pay
2 about 2.50 a month, region wide, for a combined price for
3 the splitter port from BellSouth plus the high frequency
4 portion of the loop. So the market-based rate we've
5 proposed is approximately double what we pay region wide.

6 Now on the non-recurring side of things, as you
7 all know, non-recurring costs are calculated in a much more
8 straight-forward fashion than recurring costs because we
9 don't have all these network elements. We have time and
10 motion studies and we figure out what it actually costs
11 BellSouth to do these things and we come up with a non-
12 recurring cost.

13 So what we did for this, on almost virtually every
14 element on there -- there's one that deviates from this and
15 I'll explain that briefly in a second -- is we took the
16 average non-zero rate in every state in the BellSouth region
17 where Covad does business. We're in seven of the states, we
18 are not in South Carolina or Mississippi. And we took an
19 average.

20 And I say non-zero, because there are certain
21 things such as load coil removal which, for instance in
22 Georgia, we pay zero for load coil removal on the theory
23 that a forward-looking network wouldn't have load coils, so
24 we shouldn't be charged for them. In reality, not under a
25 TELRIC model, BellSouth does incur costs to remove load

1 coils for us when we ask them to, so we included a rate in
2 the rate sheet for that, and we arrived at that by averaging
3 every non-zero rate in the seven states in the BellSouth
4 region in which we do business. The assumption there is
5 that what you've got with that average is the wisdom of
6 seven sets of staff, seven sets of commissioners who have
7 examined time and motion studies repeatedly, and that that's
8 a reasonable proxy for what the actual cost to BellSouth is
9 for the non-recurring rate.

10 Finally, in the one area we did not do that, we
11 did not average it, that was on bridge tap removal, which
12 you'll see on my Exhibit A -- well, it's on there, bridge
13 tap removal. It's the second line down under loop
14 modification. That's because we have a number -- several
15 zero states there and then we have one outlying state,
16 Tennessee, where the charge is \$528 and we just wound up
17 with a really wacky number there. If you look at that
18 number, we proposed \$68.11 and BellSouth proposed on Tommy
19 Williams' revised exhibit, which I do not believe is
20 confidential or trade secret, proposed a \$92.00 rate. So
21 we're not that far apart on that one, despite the fact that
22 our methodology on that one did deviate a little bit.

23 That's my summary.

24 MR. WATKINS: Mr. Chairman, I'd tender Mr. Weber
25 for cross examination.

1 CHAIRMAN WISE: For the Commission?

2 MR. WALSH: No cross, Mr. Chairman.

3 CHAIRMAN WISE: Thank you. CUC.

4 MS. MELLINGER: No questions, Mr. Chairman.

5 CHAIRMAN WISE: BellSouth.

6 MS. MAYS: Thank you, Mr. Chairman, Commissioners.

7 Good afternoon, Mr. Weber.

8 THE WITNESS: Ms. Mays.

9 CROSS EXAMINATION

10 BY MS. MAYS:

11 Q Just to be clear, Mr. Weber, if for some reason
12 Covad is wrong and some court somewhere says we don't have a
13 271 obligation, you would agree with me that BellSouth has
14 no obligation to negotiate a line sharing agreement,
15 wouldn't you?

16 A Are we talking about a global agreement or just in
17 Georgia?

18 Q Let's limit it to Georgia. Let's say we got the
19 highest possible court says no 271 obligation in Georgia,
20 would you agree with me that in Georgia, Covad has no -- I'm
21 sorry -- BellSouth has no obligation to get a line sharing
22 agreement with Covad.

23 A And I just want to state this clearly, so I make
24 sure I'm saying what I want to say instead of just yes or
25 no.

1 In the event that it is determined that the
2 Georgia Commission does not have authority to set -- to
3 examine and set 271 rates, you would not be under an
4 obligation to provide line sharing; that is correct. If it
5 were found to be not a checklist item.

6 Q Now in understanding your proposals, you did
7 explain I think in your summary that you looked at the non-
8 recurring and the recurring rates differently, right?

9 A Correct.

10 Q And for non-recurring rates and the averages you
11 present, those are based on TELRIC rates in those states and
12 in the circumstances --

13 A I disagree with that. Non-recurring rates do not
14 include a forward looking TELRIC component in the same way
15 that recurring rates do. The TELRIC component of rate
16 setting is primarily involved in network type issues. Non-
17 recurring rates, on the other hand, are based on actual
18 costs that are incurred by BellSouth. What is the hourly
19 rate that you pay to your workers within the central office?
20 How long does it take them to remove a loop from this
21 jumper and put it onto this jumper? So those are not
22 forward looking rates.

23 Q Did you look at BellSouth's submissions, cost
24 studies in TELRIC proceedings for those states, sir?

25 A I have looked at those in the past. I did not

1 look at them again with regard to this proceeding.

2 Q And you did not limit your analysis to solely
3 Georgia, correct? You looked at six other states in
4 addition to Georgia.

5 A I created an average, as I said, of the non-
6 recurring rates from the states in which Covad does business
7 in the southeast in the BellSouth region.

8 Q With respect to the recurring rates, you didn't
9 take an average of the recurring rates you've already agreed
10 to pay to other carriers, did you?

11 A No, we did not do that.

12 Q And isn't it true that, for example, with your
13 line sharing agreement with SBC and now AT&T, the monthly
14 recurring rate is \$5.75?

15 A That's correct.

16 Q And when you talked in your summary about "about
17 \$5.00," you rounded up, didn't you? In fact, the line
18 sharing proposal is \$4.50, correct?

19 A No, that's not correct.

20 Q The recurring line sharing rate, if you add the
21 splitter and the high frequency portion of the loop, would
22 you not add \$1.22 to the \$3.28?

23 A Correct -- I'm sorry, you are correct. I did not
24 mean to round up, you're correct.

25 And I would like to add on that note that we

1 believe we have a reasonable basis for the recurring rates
 2 we've suggested here, but we do also believe if the
 3 Commission chose to look at -- particularly if it did it
 4 with a weighted average -- the rates that we are paying
 5 across the other 38 -- I'm sorry, the other 28 states where
 6 we do business, in the commercial agreements that we've
 7 entered into there, we think that that would be a
 8 potentially valid methodology. It's not what we chose to do
 9 here, but if that's what the Commission chose to do, we
 10 think that would be a very reasonable position to take.

11 Q And in fact, the monthly recurring rates that you
 12 have agreed to pay Qwest and Verizon are also higher than
 13 the \$4.50 you've proposed in your testimony, is that right?

14 A That's correct. With the exception that the
 15 Qwest-- depending on our volumes, the Qwest rate can be at
 16 that level. Based on our current volumes today, however,
 17 that is not what we are paying.

18 Q And you use the line sharing arrangement you
 19 obtained from BellSouth to offer your own DSL service to
 20 both residential and small business customers, is that
 21 right?

22 A That's correct.

23 Q And that was what you're paying 61 cents a month
 24 for now, correct?

25 A That's correct.

1 Q Is it correct that your lowest residential DSL
2 offering is \$39.95?

3 A I don't believe today that Covad offers direct
4 residential DSL service on a line sharing basis. I could be
5 wrong about that. If it is, it's a product that we don't
6 advertise. I'm sorry -- our line sharing products are
7 offered -- I'm unwilling after what you asked me to say
8 exclusively, but almost exclusively -- via wholesale
9 partners such as Earthlink, AOL and AT&T. So they certainly
10 have offers selling our wholesale product that are much
11 lower than that.

12 Q If I were to look at your website and I saw \$39.95
13 residential, is it your testimony you do not use BellSouth's
14 line sharing arrangement to offer that?

15 A No, that's not my testimony. If you see that on
16 the website, then I'm sure that that's accurate.

17 Q Is it also correct that in your most recent
18 financial reporting, you reported a weighted average revenue
19 per user for broadband customers of \$54.00 a month?

20 A That's correct. And of course, that includes our
21 T1 customers, our medium and small -- residential, small,
22 medium and large business customers.

23 Q Would you agree with me, Mr. Weber, that under the
24 current line sharing transitional plan that the FCC
25 established, that the rate under that plan in Georgia, the

1 75 percent of the unbundled copper loop rate, that that rate
2 would be \$8.27?

3 A That's correct.

4 MS. MAYS: Thank you. I have nothing further.

5 CHAIRMAN WISE: Covad.

6 MR. WATKINS: We have no redirect, Mr. Chairman.

7 CHAIRMAN WISE: Do you want to move your testimony
8 in, or your exhibit?

9 MR. WATKINS: I did before, but I'll move again
10 Mr. Weber's testimony and exhibit be entered into evidence.

11 (Witness excused.)

12 CHAIRMAN WISE: Competitive Carriers, your
13 witness. Are you going to put Mr. Gillan up this evening?

14 MR. MAGNESS: Mr. Chairman, actually we were
15 hoping to put up the witness that we had subpoenaed first,
16 because we asked for that witness primarily to complete the
17 discovery that we had asked for. We wanted to be able to
18 put that witness up before Mr. Gillan.

19 Given that there are two discovery requests that
20 that witness is to address, one of them is subject to this
21 review of the redacted material that we talked about earlier
22 --

23 CHAIRMAN WISE: Right.

24 MR. MAGNESS: -- we could put up the witness as
25 far as the discussion of Data Request Number 1, I think we

1 have everything we need to do that. I would just prefer to
2 do that and receive all --

3 CHAIRMAN WISE: If there's no objection, we'll go
4 forward.

5 MR. MAGNESS: Okay. And if we could -- I don't
6 know if it's the same witness or not, but we could recall
7 the witness tomorrow for the rest.

8 MS. FOSHEE: Mr. Chairman, we would prefer that
9 Ms. Tipton just be on the stand one time, and since Mr.
10 Gillan is here, we would ask that we just go ahead and try
11 to finish Mr. Gillan tonight and then put Ms. Tipton up
12 tomorrow, so she can testify once.

13 CHAIRMAN WISE: I can't see why it would hurt to
14 put up Mr. Gillan tonight.

15 MR. MAGNESS: Mr. Chairman, the only thing is that
16 if there is information we find out from examining the
17 witnesses based on the discovery that BellSouth has
18 provided, that would inform Mr. Gillan's testimony. It's
19 just like any other discovery request, you get a response
20 back and that discovery response may inform the direct case
21 you put on.

22 CHAIRMAN WISE: Will Ms. Tipton be available
23 tomorrow, Ms. Foshee?

24 MS. FOSHEE: Yes, she will be, but you know, I
25 would object to using this hearing process as a discovery

1 mechanism. I mean certainly they could have issued a
2 subpoena for her deposition prior to the hearing and, you
3 know, we certainly had some objections to that, but that
4 doesn't mean that it wouldn't have been resolved in their
5 favor, as the subpoena was. So to just put her on the stand
6 to conduct discovery so that Mr. Gillan can then testify
7 about that tomorrow seems to put us at somewhat of a
8 disadvantage.

9 CHAIRMAN WISE: I believe it does as well, Mr.
10 Magness.

11 MR. MAGNESS: Well, Your Honor, number one, the
12 only reason we have this problem is that there were
13 documents redacted from the discovery responses and we don't
14 know why, and we don't know whether that was appropriate or
15 not. So allowing BellSouth to get an advantage of that from
16 that, we don't think is really fair.

17 CHAIRMAN WISE: I just can't see giving you two
18 bites at the apple, Mr. Magness. I hear your point, but --

19 MR. MAGNESS: I guess what we're saying is that
20 there's two different apples. And we're happy to take on
21 the first apple where we have all the data in front of us
22 and we know what we're facing. The second one, where we're
23 still awaiting the review of the documents, that's the one
24 we're concerned about.

25 I don't want to put Ms. Tipton on once and not be

1 able to ask her about those documents that may be made part
2 of discovery after the review, so we can put Mr. Gillan on.

3 CHAIRMAN WISE: Well, Mr. Magness, my advice is
4 that you put Mr. Gillan up.

5 MR. MAGNESS: Okay, we'll do that.

6 COMMISSIONER BAKER: Could we just find out, has
7 staff completed its review of the --

8 CHAIRMAN WISE: Mr. Walsh, thank you very much.

9 (Discussion off the record.)

10 CHAIRMAN WISE: We'll take five minutes.

11 (A short recess was taken.)

12 CHAIRMAN WISE: All right, thank y'all very much.
13 Mr. Magness.

14 MR. MAGNESS: Mr. Chairman, I think on the break,
15 we've cut through this. We, CompSouth, is willing to
16 withdraw the motion to compel that necessitated the staff
17 review of the documents that were redacted. We are willing
18 to take BellSouth's witness this evening, or this afternoon
19 rather, based on the information we have available. We
20 think that's going to be sufficient for the purposes of the
21 hearing, and we'll go forward that way.

22 CHAIRMAN WISE: Well, great. Thank you for that
23 resolution.

24 MS. FOSHEE: In response to the subpoena,
25 BellSouth calls Ms. Pam Tipton.

1 And Mr. Chairman, because she is here as a witness
2 for CompSouth, she did not prepare a summary, but she'll be
3 available for cross examination.

4 CHAIRMAN WISE: All right, thank you.

5 MR. MAGNESS: Mr. Chairman, CompSouth would
6 request the ability to treat Ms. Tipton as a hostile
7 witness; that is, allowing us to do leading questions, given
8 that she is an opposition witness.

9 MS. FOSHEE: She will no doubt be hostile.

10 (Laughter.)

11 MR. MAGNESS: Nothing personal, Your Honor, just a
12 technical term.

13 CHAIRMAN WISE: You may.

14 MR. MAGNESS: And Commissioners, there are some
15 trade secret documents that were produced in response to
16 discovery request 1 and 2, which Mr. Jones is providing only
17 to counsel, the Commissioners, the court reporter. As with
18 the documents discussed earlier in the hearing, we'll make
19 every effort to avoid saying any numbers or names that would
20 reveal the trade secret information.

21 And while Mr. Jones is passing this out, I'd just
22 like to say for the record the subpoena that was issued was
23 for a BellSouth corporate representative who could provide
24 information responsive to CompSouth's second request, Data
25 Requests Number 1 and 2.

1 Ms. Tipton, would you please raise your right
2 hand?

3 Whereupon,

4 PAM TIPTON

5 appeared as a witness herein and, having been first duly
6 sworn, was examined and testified as follows:

7 CROSS EXAMINATION

8 BY MR. MAGNESS:

9 Q For the record, could you please state your name
10 and how you're employed?

11 A Yes, my name is Pam Tipton and I'm employed by
12 BellSouth Telecommunications.

13 Q And Ms. Tipton, I believe -- correct me if I'm
14 wrong -- you have been identified by BellSouth as the
15 witness responsive to the subpoena that was issued to
16 BellSouth for information on Data Request Number 1 and 2?

17 A That's correct.

18 Q And I'd ask you to look at the documents I've put
19 in front of you, and as I noted before, these are designated
20 confidential and so I don't want you to tell me much about
21 them, but if you could just look at the three documents that
22 we handed out. Are you familiar with each one of these
23 documents?

24 A Yes, I am.

25 Q Do you know whether or not they were produced as

1 part of BellSouth's responses to Data Requests Number 1 and
2 2 from CompSouth?

3 A Yes, they were.

4 Q Okay. And I'd like to start with this
5 spreadsheet, the title of which is "Signed Commercial
6 Agreements, Georgia Information Only". Do you have that
7 before you?

8 A Yes.

9 Q Okay. And if I'm in this room and there is a
10 spreadsheet, I suppose I have to talk to you about it.

11 A Seems that's the case.

12 Q We've done this before. But not on this
13 spreadsheet.

14 The first question I have is on the far right
15 column, the far right two columns, there is a -- the last
16 column in this spreadsheet says "Total DS0 Local Voice
17 Platform Service, First Month Agreement in Effect." Do you
18 see that?

19 A Yes.

20 Q And then there are numbers in some of the columns
21 following after that. Are the lines that are reflected in
22 those numbers UNE-P lines?

23 A Yes, that would have been the in-service count of
24 UNE-P the month that the commercial agreement was actually
25 executed.

1 Q And then the column immediately to the left,
2 "Total DS0 Local Voice Platform Service, November 2005."
3 That is similarly a count of what?

4 A Let me add onto my previous answer, which will
5 help me explain this second column. When the commercial
6 agreement becomes effective, one of the terms in that
7 agreement is that the embedded base of then UNE-P would
8 immediately transition to the DS0 wholesale local voice
9 platform service. So those terms are sometimes interchanged
10 because people are accustomed to the term UNE-P, but the
11 customer agrees that 100 percent of their lines in service,
12 with a commercial agreement at least, transition to the
13 wholesale platform.

14 So the far right column would be the month that
15 the agreement became effective, were what was UNE-P and then
16 transitioned to the wholesale platform. The column
17 immediately to the left of that is the count of lines in
18 service under the wholesale agreement in November of 2005.

19 Q Okay. And if you want to see when the agreement
20 was signed, there's a column, if you start at the left --
21 one, two, three, four, five, six, seven, eight lines over
22 that shows the date those agreements were signed, right?

23 A Yes, that's correct.

24 Q Now if there is a blank in the two right columns,
25 does that mean that there aren't any lines covered by the

1 commercial agreement?

2 A I believe on this spreadsheet, it means that that
3 particular CLEC does not have lines in Georgia.

4 Q Any lines at all or lines covered by the
5 commercial agreement?

6 A Lines covered by the commercial agreement in
7 Georgia. If they've signed a commercial agreement, and they
8 had UNE-P lines in service at the time they signed the
9 agreement, all of those lines would have converted to be
10 covered by the commercial agreement. So where there is a
11 blank row, it indicates to me that that customer does not
12 have what was UNE-P and is now commercial lines in service
13 in Georgia.

14 Q Okay. And the far right column would show that
15 they didn't have any UNE-P lines in service when they signed
16 this commercial agreement, right?

17 A In Georgia, but they could perhaps in other
18 states.

19 Q Okay. And just to get an aggregate count of how
20 many agreements we're talking about here, you have on the
21 far left customer column, and they're listed sequentially.
22 You see that?

23 A Yes.

24 Q And if you flip to the next page, it continues on.
25 Flip to the next page and then it ends with 115, correct?

1 A Correct.

2 Q And then there's another grouping of these
3 agreements that begins on page 4 of 5 and that goes down to
4 55, up to the next page to a total of 60, correct?

5 A Correct.

6 Q So if you added that 60 to the 115 in the first
7 grouping, would it be correct you'd have 175 of these
8 agreements listed for Georgia?

9 A That's correct.

10 Q And of the 175 agreements, based on what you've
11 said about these columns being blank, would you agree with
12 me subject to check that over 120 of these agreements have
13 no UNE-P or commercial agreement lines in service?

14 A That's possible. Many of the customers that we
15 negotiated with were actually interested in having a
16 regional agreement, because whether their business plan
17 currently calls for serving customers in Georgia or not,
18 they wanted to make sure they had the opportunity to provide
19 service to customers in Georgia in the event their business
20 plans changed and they decided to provide that service.

21 Q Okay, I was just asking though, is it factually
22 accurate that if we see those last two columns blank, that
23 as of the time the agreement was signed and as of November
24 2005, that was not a company that had UNE-P or commercial
25 agreement lines in service; is that correct?

1 A Correct.

2 Q Okay. And of the remaining companies, there's
3 over 120 that show no lines -- of those that do show lines,
4 just starting at the first page, looking down at the numbers
5 in the far right columns, the number in the far right column
6 indicates how many lines were in service when they signed
7 the agreement; right?

8 A Yes.

9 Q And then next to it, it is more updated to
10 November 2005; right?

11 A Correct.

12 Q Okay. And would you agree as you just look down,
13 while there are a few exceptions, for the most part, the
14 lines in service from the companies have been decreasing
15 since they signed the commercial agreements?

16 A I think you will see both. I think some of the
17 customers have increased substantially, some have decreased
18 substantially, some have increased slightly, some have
19 decreased slightly.

20 Q Well, as you look through this, I mean, do you see
21 -- wouldn't you say that the vast majority have been
22 decreasing -- has that been BellSouth's experience?

23 A Well, I haven't studied the numbers in detail, but
24 doing a quick glance down through the numbers, it looks like
25 there's kind of a mix actually. I'm seeing a pretty fair

1 mix of those that have increased and those that have
2 decreased.

3 Q And would you agree that in its most recent
4 reports, financial reports, BellSouth has indicated there
5 are 450,000 fewer UNE-P and commercial agreement lines as of
6 December than there were in June?

7 A That doesn't really surprise me considering that
8 some of our larger UNE-P customers have been migrating to a
9 UNE-L platform. We've done quite a significant volume of
10 hot cutovers from the UNE-P to the UNE-L platform since the
11 TRRO has become effective. So it doesn't surprise me. And
12 we also have normal attrition, CLECs are not able to add new
13 UNE-P lines after the March 11 effective date, and so
14 natural attrition would lend for those units to go down
15 since CLECs that did not have a commercial agreement could
16 not add new lines.

17 Q Can you tell us approximately how many lines have
18 been transitioned from UNE-P to a DSO UNE-L?

19 A I don't know that number.

20 Q Any idea?

21 A No. It's in the hundreds of thousands though, I
22 do know that.

23 Q And just one question here on -- I'll identify it
24 as CLEC number 12. That's the customer number, and we
25 should have handed out rulers with this document, if you go

1 across, do you see where we are?

2 A Uh-huh.

3 Q Okay. That one was just curious to me. I
4 wondered how you would explain it. It showed no lines in
5 service when the agreement was first in effect and then that
6 number there to the left as of November 2005. Do you think
7 that's just an error in the blank column or do you really
8 believe that that carrier that's identified as number 12 had
9 zero UNE-P lines when it signed the agreement?

10 A I really don't know, because I would assume, based
11 on who the carrier is, that there -- I would have thought
12 that there would have been some lines in service, but I just
13 don't know.

14 Q And now if I could turn your attention, again
15 staying on this first page, to the column that's labeled
16 "Rates." And if you start from the left, that one is one,
17 two, three, four, five, six, seven, eight, nine columns in.
18 Do you see where I am?

19 A Yes.

20 Q And the columns there are filled in either with an
21 "S" or an "NR". Do you see that?

22 A Yes.

23 Q Okay, and I guess if you turn to page 3, there's a
24 key here, Note Number 3, "S equals BellSouth's standard
25 commercial offering between March 23, 2004 and March 11,

1 2005." With whom did BellSouth negotiate its standard rate?

2 A I'm not sure I understand the question.

3 Q Well, was the standard rate an offering that was
4 laid on the table by BellSouth, the rate that's described
5 here? Or was there a negotiation that set that rate as a
6 benchmark? How did you come up with it?

7 A As far as how you end up with an agreement that
8 has a standard rate? I'm not sure I'm understanding your
9 question.

10 Q No, just the standard rate is at a certain level
11 and I'm asking was there a particular negotiation with one
12 of these CLECs where y'all battled it out and you came up
13 with the rate that became the standard rate?

14 A I would say typically what happened is that
15 BellSouth would have its standard offer available that it
16 provided to CLECs in the form of a term sheet once a non-
17 disclosure agreement was signed and the entire agreement was
18 provided. Admittedly, a number of CLECs simply signed the
19 commercial agreement and returned it to BellSouth for
20 execution. There are also a number of CLECs that negotiated
21 with us other terms in the agreement in trade for BellSouth
22 being able to sustain the rates that it proposed in its
23 opening offer. So we have perhaps other terms that carriers
24 agreed, to purchase let's say ancillary services, perhaps
25 different service levels and things like that.

1 Q Okay, so I kind of want to rewind you back to the
2 beginning of that answer, which was you offered the standard
3 rate as part of a term sheet; right?

4 A Yes.

5 Q Okay, so when you began discussions with the CLEC,
6 that rate that's indicated by "S" was kind of a rack rate
7 that you offered generally, right?

8 A Yes.

9 Q Okay. And if we look at these -- if we look at
10 the rate column in these 175 agreement listed here, the
11 other designation that shows up is "NR", which I believe is
12 your abbreviation for negotiated rate; right?

13 A Correct.

14 Q Okay. And how many of these agreements actually
15 had a negotiated rate?

16 A If I counted correctly, it looks like five.

17 Q Okay. And then if we go to the last page of this
18 spreadsheet, entitled "BellSouth Negotiated Rates" -- are
19 you there with me?

20 A I'm getting there. Yes.

21 Q You identified by number the CLECs who have the
22 negotiated rates, right?

23 A Yes.

24 Q And that CLEC 12 shows up again, correct?

25 A Correct.

1 Q Okay. And is the rate that's listed there for
2 CLEC 12 really the rate, the correct rate, that's in their
3 commercial agreement?

4 A Again, I'm not sure I understand what you're
5 asking.

6 Q Well, the rates are listed in terms of -- and this
7 is not just true for CLEC 12, but if you look at all these
8 "negotiated rates", they're identified as valid state TELRIC
9 plus X, some dollar amount, right?

10 A Correct.

11 Q Okay. And you see at least for CLECS 4, 16, 56
12 and 67 some fairly similar numbers. The numbers for CLEC 12
13 are, just from eyeballing, are dramatically different. I
14 just wanted to check if the deal that CLEC 12 got is
15 reflected by these numbers; or is there some error in the
16 numbers?

17 A Well, while I didn't personally put together this
18 information, I know that the individual who did was very
19 involved in developing the commercial rate and the rate
20 offers, so I'm presuming that this is reflective of the rate
21 portion of the terms negotiated in that particular
22 agreement. And I am familiar with this particular proposal
23 and agreement itself, and it was one that did have volume
24 and term levels within it. So to the extent the carrier had
25 a certain volume within the agreement, then these rates were